



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2011 Biennium

Bill #	HB0541	Title:	Revise marijuana related crime laws
Primary Sponsor:	Wiseman, Brady	Status:	As Introduced

- | | | |
|--|--|--|
| <input checked="" type="checkbox"/> Significant Local Gov Impact | <input type="checkbox"/> Needs to be included in HB 2 | <input type="checkbox"/> Technical Concerns |
| <input type="checkbox"/> Included in the Executive Budget | <input type="checkbox"/> Significant Long-Term Impacts | <input type="checkbox"/> Dedicated Revenue Form Attached |

FISCAL SUMMARY

	<u>FY 2010 Difference</u>	<u>FY 2011 Difference</u>	<u>FY 2012 Difference</u>	<u>FY 2013 Difference</u>
Expenditures:				
General Fund	(\$44,000)	(\$44,000)	(\$44,000)	(\$44,000)
Revenue:				
General Fund	\$0	\$0	\$0	\$0
Net Impact-General Fund Balance:	<u>\$44,000</u>	<u>\$44,000</u>	<u>\$44,000</u>	<u>\$44,000</u>

Description of fiscal impact:

This bill would make second or subsequent possession of less than 30 grams of marijuana a civil penalty. Currently a second or subsequent offense of possession of up to 60 grams of marijuana has a penalty of imprisonment at a state prison for up to three years. Passage of the bill would result in less time spent by public defenders, less court time spent, and could also result in a slight caseload decrease for probation and parole officers. Most of these saving to the state are hard to quantify and would be small, but the estimated cost savings for the Office of the State Public Defender is included in this fiscal note.

FISCAL ANALYSIS

Assumptions:

Office of Public Defender (OPD)

1. This bill would make second or subsequent possession of less than 30 grams of marijuana a civil penalty. Currently, a second or subsequent offense of possession of up to 60 grams of marijuana has a penalty of imprisonment at a state prison for up to three years.
2. During FY 2008, the Office of the State Public Defender (OPD) represented 1,491 cases with charges under Title 45-9, MCA, for dangerous drugs. Of these cases, 498 had at least one charge of misdemeanor

possession of marijuana. During the same fiscal year, OPD had 376 cases that had only the misdemeanor charge and no other charges. OPD worked on 874 cases that had this charge as either a stand alone charge, or as part of a group of charges.

3. OPD represents clients using both staff and contract attorneys throughout the state. If this law is passed OPD would expect to have fewer charges to work. However, if the case has multiple charges like in the case where 498 charges of misdemeanor use were combined with other charges-the work would diminish somewhat but would continue on the other charges. In cases where this is the only charge, staff attorneys would spend time on other cases. OPD would avoid paying contract attorneys for this kind of work. During FY 2008, OPD paid contractors approximately \$44,000 for this work. These costs would not be incurred if this bill were passed.

Department of Corrections

4. Currently the department has two offenders on probation with possession of marijuana of less than 30 grams. As a result, a probation officer's caseload may be reduced by two offenders upon passage of this bill. The cost of an offender on probation is \$4.63/day or \$1,690 per year. This bill will have minimal fiscal impact on the department because under current law, judges also have the discretion to sentence offenders to county jail.

	<u>FY 2010 Difference</u>	<u>FY 2011 Difference</u>	<u>FY 2012 Difference</u>	<u>FY 2013 Difference</u>
<u>Fiscal Impact:</u>				
Office of the State Public Defender				
<u>Expenditures:</u>				
Operating Expenses	(\$44,000)	(\$44,000)	(\$44,000)	(\$44,000)
<u>Funding of Expenditures:</u>				
General Fund (01)	(\$44,000)	(\$44,000)	(\$44,000)	(\$44,000)
<u>Revenues:</u>				
General Fund (01)	\$0	\$0	\$0	\$0
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>				
General Fund (01)	\$44,000	\$44,000	\$44,000	\$44,000

Effect on County or Other Local Revenues or Expenditures:

This bill should decrease the number of days defendants currently are held in county detention facilities which translates to less costs to those local entities.

Sponsor's Initials

Date

Budget Director's Initials

Date